

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

KIMBERLY A. WENINGER )  
Plaintiff )  
 ) CIVIL ACTION NO. 4:14-cv-03510  
v. )  
 )  
UNITED STATES OF AMERICA )  
Defendant )

**UNITED STATES OF AMERICA'S  
COUNTERCLAIM AGAINST KIMBERLY A. WENINGER**

For its counterclaim against Kimberly A. Weninger ("Weninger,") which has been authorized and requested by a duly authorized delegate of the Secretary of the Treasury of the United States of America and directed on behalf of the Attorney General of the United States of America, and which is brought pursuant to 26 U.S.C. § 7401 and 28 U.S.C. § 1346, the United States alleges as follows:

1. The Plaintiff, Weninger, lives in Spring, Texas, which is within the jurisdiction of this court.
2. On October 11, 2010, a delegate of the Secretary of the Treasury made assessment against, and gave notice and demand for payment thereof to, Weninger for a total of \$38,532.56, such amount representing her liability under 26 U.S.C. § 6672 for unpaid employment taxes for the fourth quarter of 2008 for Osvold Acquisition, LLC ("Osvold.")
3. On October 11, 2010, a delegate of the Secretary of the Treasury made assessment against, and gave notice and demand for payment thereof to, Weninger for a total of \$34,452.98, such amount representing her liability under 26 U.S.C. § 6672 for unpaid employment taxes for the first quarter of 2009 for Osvold.

4. To date, Weninger has made payments to the Internal Revenue Service, or had credits posted to her account, in the amount of \$6,601.00.

5. Weninger has neglected, failed and refused to pay the full amount of the assessments described in paragraphs 2 - 3, and there remains due and owing on said assessments a total of \$76,151.74 as of January 19, 2015, plus interest and all statutory additions thereon as provided by law.

**WHEREFORE**, the United States of America prays as follows:

A. That this Court order that Kimberly A. Weninger is not entitled to any refund or other relief;

B. That Kimberly A. Weninger is indebted to the United States of America in the amount of \$76,151.74 as of January 19, 2015, plus interest and all statutory additions thereon provided by law, and that the United States have a judgment against her for that amount; and

C. That the United States be granted such other and further relief, including its costs, as the Court deems proper.

KENNETH MAGIDSON  
United States Attorney

/s/ Jon E. Fisher  
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ATTORNEYS FOR THE UNITED STATES

**CERTIFICATE OF SERVICE**

I certify that service of the foregoing document has been made on March 23, 2015, by electronic notice to:

Robert L. Wilson  
THE WILSON FIRM  
1095 Evergreen Circle, Suite 200  
The Woodlands, Texas 77380

/s/ Jon E. Fisher  
JON E. FISHER